BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF REVISIONS TO THE)	
RULES OF PRACTICE AND PROCEDURE)	
OF THE DELAWARE PUBLIC SERVICE)	PSC REGULATION DOCKET
COMMISSION)	NO. 99-9
(FILED JANUARY 6, 1999; RE-OPENED)	
OCTOBER 9, 2012; RE-OPENED)	
JANUARY 29, 2020))	

ORDER NO. <u>9547</u>

AND NOW, this 19th day of February 2020, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, on January 29, 2020, by Order No. 9533, the Commission adopted certain amendments to its "Rules of Practice and Procedure of the Delaware Public Service Commission," 26 Del. Admin. C. § 1001 et seq. ("Rules") and directed the Secretary of the Commission ("Secretary") to transmit the amended Rules to the to the Registrar of Regulations ("Registrar") for publication in the Delaware Register, as required by 29 Del. C. § 10113; and

WHEREAS, minor revisions to the Rules were necessary to update and clarify certain procedures relating to the handling of complaints and to the filing of documents via the Commission's "DelaFile" electronic filing system, as well as one revision to update a statutory reference; and

WHEREAS, on January 30, 2020, the Secretary transmitted the amended rules to the Registrar, who responded on February 6, 2020 with certain recommendations for changes to the drafting style of the Rules so that the published regulation would align with the guidelines set forth in the *Delaware Administrative Code Drafting and Style Manual* (September 2014 Edition); and

PSC Regulation Docket No. 99-9, Order No. 9547 Cont'd

WHEREAS, Commission Staff made the recommended changes to the Rules and now proposes that the Commission adopt the corrected version of the amended Rules, as reflected in

the marked-up version of the Rules attached hereto as Exhibit "A"; and

WHEREAS, under 29 Del. C. § 10113(b)(2), an agency's adoption or amendment of its

rules of practice and procedure is exempt from the requirements of 29 Del. C. Ch. 101 relating to

notice and public comment and may instead be informally adopted or amended;

NOW, THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE OF NOT FEWER THAN THREE COMMISSIONERS:

1. That pursuant to 26 *Del. C.* § 209(a) and 29 *Del. C.* § 10113(b)(2), the Commission

hereby adopts the Rules of Practice and Procedure of the Delaware Public Service Commission

as amended herein as its official regulation as defined by 29 Del. C. § 1132(3). A marked-up

version of the Rules reflecting only the amended sections is attached as Exhibit "A".

2. That pursuant to 29 *Del. C.* § 10113, the Secretary of the Commission shall transmit

a copy of this Order, including Exhibit "A," to the Registrar of Regulations for publication in the

Delaware Register. An exact copy of the Rules, as amended, shall be published as the current

official regulations in the Delaware Register.

3. That the Commission reserves the jurisdiction and authority to enter such further

Orders in this matter as may be deemed necessary or proper

BY ORDER OF THE COMMISSION:

Chairman		

	Commissioner
	Commissioner
	Commissioner
	Commissioner
ATTEST:	
Secretary	

EXHIBIT "A"

STATE OF DELAWARE Delaware Public Service Commission

Rules of Practice and Procedure of the Delaware Public Service Commission (Marked-up Version of Amended Sections)

26 Del. Admin. C. § 1001

Public Service Commission 26 *Del. Admin. C.* §1001 26 *Del. C.* §209(a)(1), 29 *Del. C.* §10113(b)(2), and 29 *Del. C.* §10111(2).

Title 26 Public Utilities
1000 General Regulations
Public Service Commission
1001 Rules of Practice and Procedure of the Delaware Public Service Commission

1.6 Filing of Documents

- 1.6.1 All papers submitted for filing with the Commission shall include on the first page the caption and docket number of the proceeding if available; the name, mail and e-mail addresses, address, and telephone and fax numbers number of the person filing the document; and the name, mail and e-mail addresses, telephone fax numbers address of the person representing the person filing the document.
- 1.6.2 The Secretary may reject any filing that does not conform to these rules or is not accompanied by the appropriate filing fee or other approved payment by returning the filing with an explanation of the defect to be remedied, if allowed, within the time period specified by the Secretary.
- 1.6.3 If E-Filing is not an available option, an original and ten (10) copies of all documents submitted for paper filing shall be provided to the Secretary, e-mail of the filing shall be provided to the service list and Secretary, unless otherwise directed by the Commission, designated Presiding Officer or Hearing Examiner. The Secretary may request additional copies when necessary.
- 1.6.4 All filings shall be made via E-Filing unless a person obtains prior written permission from the Commission, designated Presiding Officer, or Hearing Examiner to be excused from using such method. If E-Filing is unavailable for use, paper filings e-mail service must be made in accordance with these Rules.
- 1.6.5 The Commission shall forward to the Public Advocate a copy of all applications submitted by public utilities and all formal complaints and petitions filed with the Commission, along with proof of a notice to be executed and returned with an acknowledged receipt pursuant to 29 Del.C. §8808 (e). One copy of all initial filings and comments shall be served on the Division of the Public Advocate at its official address and a certificate of service indicating such service must accompany the filing with the Secretary.
- 1.6.6 Each person filing a document with the Commission shall serve a copy of the document on each party named on the service list for the proceeding as maintained by the Secretary, if established, and any other person required to be served by rule, order, or law. Proof of such service shall be attached to the document to be filed or its cover letter.
- 1.6.7 Unless otherwise specified by the Presiding Officer or Hearing Examiner or served via DelaFile, service should be made by:
 - 1.6.7.1 United States mail, first-class;
 - 1.6.7.2 Commercial courier service; or
 - 1.6.7.3 personal delivery. Personal delivery; or
 - 1.6.7.4 E-mail.

- 1.11 Submission of Confidential, Proprietary, and Privileged Material
 - 1.11.1 A person may request that the Commission accord confidential treatment to some or all of the information contained in a document. In support of such a request, such person shall attest that the information is not subject to inspection by either the public or by other parties unless an appropriate proprietary agreement is executed. There shall be a rebuttable presumption that information claimed to be confidential is confidential until ruled otherwise by the Commission. (For a listing of materials that are exempt from public disclosure, see 29 Del.C. §10002(d) §10002(l)).

- 1.7.1 Filings shall include the following:
 - 1.7.1.1 applications; Applications;
 - 1.7.1.2 petitions; Petitions;
 - 1.7.1.3 complaints; Complaints;
 - 1.7.1.4 answers; Answers;
 - 1.7.1.5 motions; Motions;
 - 1.7.1.6 briefs; Briefs;
 - 1.7.1.7 memoranda; Memoranda;
 - 1.7.1.8 exceptions; Exceptions; and
 - 1.7.1.9 comments. Comments.

- 1.8.1 Applications shall be in numbered paragraphs and include the following:
 - 1.8.1.1 the <u>The</u> name, mail and e-mail addresses, telephone and fax numbers of the applicant;
 - 1.8.1.2 $\frac{A}{A}$ description of the authorization, right, or approval sought;
 - 1.8.1.3 a A description of any previous authorization or approval which will be affected;
 - 1.8.1.4 a A concise recitation of the material facts to be relied upon;
 - 1.8.1.5 a A citation to the statute, rule, or order which authorizes the application;
 - 1.8.1.6 copies Copies of all pertinent contracts, agreements, certificates, permits, tariffs, proposed tariffs, charters, by-laws, ordinances, resolutions or other writings referred to in the application, which shall be attached as exhibits. Copies of written material or orders which are of record with the Commission need not be attached to the application if reference is made to the appropriate docket and order numbers; and
 - 1.8.1.7 any Any information required by rule or order for a specific type of application.
- 1.8.2 Applications shall be initially reviewed by the Commission and upon such review, may be be:
 - 1.8.2.1 i) published Published for public comment; comment;

26 Del. C. §209(a)(1), 29 Del. C. §10113(b)(2), and 29 Del. C. §10111(2)

- 1.8.2.1 ii) approved Approved with or without conditions;
- 1.8.2.3 iii) denied, Denied;
- 1.8.2.4 iv) set Set for evidentiary hearing, hearing: or
- 1.8.2.5 v) granted Granted in part and denied in part.

2.2 Informal Complaints and Mediation

- 2.2.1 An informal complaint may be made by letter, other writing, or via telephone to Commission Staff the Division of the Public Advocate, which shall investigate the allegations and, having duly notified the person that is the subject of the informal complaint, request a response from such person. which shall notify the utility of the complaint. The Commission Staff shall attempt to resolve the informal complaint to the satisfaction of the parties. The Commission Staff shall prepare a report at the conclusion of the investigation and mediation process to summarize the dispute and the proposed resolution by the Commission Staff. The parties will have twenty (20) days to indicate in writing acceptance or rejection of the proposed resolution by Commission Staff. The utility shall have ten business days to respond to the informal complaint. While the complaint is open, the utility shall continue to provide service to the complainant. Upon the Division of the Public Advocate's request, Commission Staff may investigate informal complaints referred directly to Commission Staff; however, the Division of the Public Advocate should be notified of the informal complaint and the resolution.
- 2.2.2 If the proposed resolution of the informal complaint by the Division of the Public Advocate or Commission Staff is not deemed satisfactory by the complainant or the utility, respondent then the complainant may institute a formal complaint at any time, within two (2) years of the alleged violation, unless good cause is shown.</code>
- 2.3 Formal Complaints
 - 2.3.1 Formal complaints must be filed within two (2) years of the alleged violation, unless good cause is shown to extend this period.
 - 2.3.2 A formal complaint shall be in numbered paragraphs and include the following:
 - 2.3.<u>2</u>4.1 name, Name, mail and e-mail addresses, <u>and</u> daytime telephone <u>number</u> and fax numbers of the complainant;
 - 2.3.21.2 name Name of the person that is subject of the complaint;
 - 2.3.21.3 description Description of conduct, including all known facts, alleged to have violated a law, rule or order; and
 - 2.3.21.4 description Description of the relief requested.
 - 2.3.2 2.3.3 Formal complaints alleging violations of any matter within the Commission's jurisdiction shall be served by the Secretary either through DelaFile or by certified mail on the person that is the subject of the complaint and direct such person to file a response within twenty (20) days of the service, unless emergency relief is requested and appropriate.
 - 2.3.3 2.3.4 Except for investigations under Rule 2.2.1, any Commission Staff investigation of an alleged violation shall be deemed a formal complaint, and the notice of investigation shall, unless otherwise ordered, be served in a like manner as a formal complaint. Notice of this investigation to the public may be given in order to elicit public input.

- 2.9.1 Any person, other than an original party to a proceeding or a party entitled to participate as a matter of right, must file a petition to intervene. Such petition shall set forth in numbered paragraphs the following:
 - 2.9.1.1 the <u>The</u> name, identity, mail and e-mail addresses, telephone and fax numbers of the person seeking to intervene;
 - 2.9.1.2 a A description of the petitioner's interest in the outcome of the proceeding;
 - 2.9.1.3 a A concise statement of why the petitioner's interest will not be adequately represented by the parties to the proceeding or why participation in the proceeding would be in the public interest; and
 - 2.9.1.4 $\frac{A}{A}$ description of the relief requested.

- 2.16.2 Within three (3) days of the entry of the ruling from which the appeal is sought, a party shall file with the Commission and serve via DelaFile or by hand delivery or overnight delivery upon all the other parties to the proceeding a Petition for interlocutory review. The Petition shall set forth in numbered paragraphs, not to exceed five (5) pages in length, the following:
 - 2.16.2.1 a A short statement of the case;
 - 2.16.2.2 a A summary of the party's position; and
 - 2.16.2.3 the The grounds supporting interlocutory appeal, including citations to the record.

- 2.19.1 Any party may file with the Commission written exceptions to the findings and recommendation of the designated Presiding Officer or Hearing Examiner in numbered paragraphs that:
 - 2.19.1.1 <u>identify</u> each part of the Presiding Officer's or Hearing Examiner's findings and recommendations that is the subject of the exceptions.
 - 2.19.1.2 refer Refer to the portions of the record relied upon in support of each exception;
 - 2.19.1.3 cite Cite any authorities relied upon;
 - 2.19.1.4 state State all the grounds and reasons for exceptions, comments and arguments respecting the recommended decision or report and refer to the portions of any post-hearing brief or memorandum where the issue was more fully addressed; and
 - 2.19.1.5 set Set forth any request for oral argument.